

MT LEGISLATIVE HISTORY

Chapter 500 , 1985

Bill H _____ S 354

Original bill & hist. ☒ C

H. Committee on Natural Resources

S. Committee on Local Government

Hearing Date(s) Mar 22 ☒ C

Hearing Date(s) Feb 21 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Mar 22 ☒ C

Feb 21 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE BILL NO. 354

INTRODUCED BY MAZUREK, FULLER, MARKS, HANNAH, J. BROWN

IN THE SENATE

February 8, 1985	Introduced and referred to Committee on Local Government.
February 21, 1985	Committee recommend bill do pass as amended. Report adopted.
February 22, 1985	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
February 25, 1985	Considered correctly engrossed. Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Natural Resources.
March 25, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Returned to Senate with amendments.

IN THE SENATE

April 1, 1985	Received from House.
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April 3, 1985

Second reading, amendments
concurred in.

April 5, 1985

Third reading, amendments
concurred in.

Ayes, 45; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 354
2 INTRODUCED BY Maquich, Fuller McCrack
3 Harmon J. Brown

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE
5 CONVEYANCE OF ONE OR MORE PARTS OF A BUILDING IS NOT A
6 SUBDIVISION; AMENDING SECTION 76-3-204, MCA."

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 76-3-204, MCA, is amended to read:

10 "76-3-204. Exemption for conveyances of one or more
11 parts of a structure or improvement. The sale, rent, lease,
12 or other conveyance of one or more parts of a building,
13 structure, or other improvement, ~~situated--on--one--or--more~~
14 ~~parcels--of--land~~ whether existing or newly constructed, is
15 not a division of land, as that term is defined in this
16 chapter, and is not subject to the requirements of this
17 chapter."

-End-

INTRODUCED BILL
SB 354

February 21, 1985

PROPOSERS

Bill Verwolf, representing the City of Helena, spoke in favor of the bill. He said Montana is one of the few states where the fiscal year does not begin on October 1. Budgets are not approved until August so you have five months of the fiscal year that are operated with no tax revenues.

Alec Hansen, representing the Montana League of Cities and Towns, stated his support of the bill.

Greg Jackson, representing Urban Coalition, stated his support of the bill.

Don Peoples, representing Butte Silver Bow local governments, stated his support of the bill.

Ardi Aiken, representing the Great Falls City Commission, stated his support of the bill.

Jim Wysocki, representing the City of Bozeman, stated his support of the bill.

OPPOSERS

Mike Stephen, representing the Montana Association of Clerk and Recorders, spoke in opposition to the bill. He said the current system serves them well and this system would be very cumbersome.

Questions from the Committee were called for.

Senator Crippen said he had a letter from the Clerk and Recorder in Yellowstone County objecting to the bill because it would affect school budgets.

Senator McCallum said the period between July 1 and September 30 is usually when schools set their budgets. This bill could cause budgets not to be approved until October 1.

The hearing was closed on SB 336.

CONSIDERATION OF SENATE BILL 354: Senator Joe Mazurek, District #23, is the sponsor of this bill. The bill was introduced to clarify that the conveyance of one or more parts of a building is not a subdivision.

February 21, 1985

PROPOSERS

Kathy Macefield, representing the Helena Areawide Planning Organization, spoke in favor of the bill. Her written testimony is attached as Exhibit A to these minutes.

Richard Llewellyn, an attorney for the Areawide Planning Organization, spoke in favor of the bill. He said the bill will correct something they thought never existed in the first place.

Bill Spilker, a licensed real estate broker, spoke in favor of the bill. He said he spent over twelve hundred dollars in dealing with a major subdivision review due to the existing language in the statute.

H.S. Hanson, representing Montana Technical Consults, stated his support of the bill.

Terry Carmody, representing the Montana Association of Realtors, stated his support of the bill.

OPPOSERS

There were no opposers to SB 354.

Senator Fuller opened the hearing for questions. There were no questions from the Committee on SB 354.

The hearing was closed on SB 354.

ACTION TAKEN ON SENATE BILL 354:

Senator Mohar moved the Committee recommend a DO PASS on SB 354. The motion passed unanimously.

CONSIDERATION OF SENATE BILL 339: Senator J. D. Lynch, District #34, is the sponsor of this bill. The bill was introduced to allow a sheriff to charge a fee of one dollar in lieu of mileage for serving items of a civil nature.

PROPOSERS

John Scully, representing the Sheriffs' and Peace Officers' Association, stated his support of the bill.

OPPOSERS

There were no opposers to SB 339.

Senator Fuller opened the hearing for questions. There were no questions from the Committee regarding SB 339.

The hearing was closed on SB 339.

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

49th
~~XXXX~~ LEGISLATIVE SESSION -- 1985

Date 2-21-85

SENATE
 SEAT
 #

NAME	PRESENT	ABSENT	EXCUSED
13 Senator Crippen, Bruce	/		
18 Senator Eck, Dorothy	/		
11 Senator Harding, Ethel	/		
47 Senator Hirsch, Les	/		
4 Senator McCallum, George	/		
28 Senator Mohar, John (V.Chair)	/		
14 Senator Pinsoneault, Dick	/		
19 Senator Regan, Pat	/		
21 Senator Story, Pete	/		
43 Senator Fuller, Dave (Chair)	/		

Each day attach to minutes.

LOCAL GOVERNMENT

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Julie Hacker	Mesa Co Truckholders	415		✓
Kera Calson	Mesa Co Truckers	415		✓
Ellen Imboden	Mesa Co Truckers	415		✓
Jane Imboden	Missouri	415		X
Pete Frazier	Certy - Co Health Dept.	415	✓	
Tomas Knight	Tafferson Broadwater	415	✓ with amendments	
Bill Loran	Lake Co. Health Dept	415	with amendments	
CARY S. MARBURY	Mont. Council of Organizations	398	✓	
Chad Bass	Powell County	415	✓ with amendments	
Bill Wood	League Women Voters			(Carroll)
D. Duran	City-Co. Health Dept Gt. Falls	415	✓ with amendments	
Terry Thomas	Yellowstone County	415	✓	
Gary Jackson	Urban Coalition	416	✓	
John Lawton	City of Billings	416	✓	
T.C. Matthews	CUT Bank Schools	372	✓	
John Wysocki	City of Bozeman	416	✓	
John Cadby	MT Bankers Assn	416		✓
Rick Dehner	First Bankers Great Falls	416		✓
B. Morris	MPAC			
Wayne Berthman	MSBA	372	✓	
Kathy Macfield	Area-wide Planning Org.	354	✓	
Richard J. Llewellyn	City of Helena	354	✓	
Mike Yague	City of Missoula	416	✓	
Al Johnson	City of Great Falls	336	✓	
" "	" " " "	416	✓	
Gloria Paluchuk	Richland Co Treasurer President St Assoc of COT Reps	372	✓	

(2-21-85

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Lewis and Clark Areawide Planning Organization



City-County Building
316 N. Park
P.O. Box 1725
Helena, Montana 59624
406-442-9920 Ext. 374

Gustav A. Byrom III, Director

LOCAL GOVERNMENT COMMITTEE
FEBRUARY 21, 1985
EXHIBIT A

File: 1010 SB354.F21

February 21, 1985

TESTIMONY

SB 354

On June 27, 1984 the Attorney General issued Opinion No. 57 in which he stated that buildings to be used for lease or rental situations constitute a subdivision. This opinion has been interpreted to mean that when portions of buildings are rented or leased, that also constitutes a subdivision. This interpretation of subdivision creates many problems for local governments for the following reasons:

1. This interpretation of subdivision, when considering rental or lease situations, is confusing. As a result, this interpretation is then susceptible to many different and inconsistent applications by the various state-wide local governments.

2. Requiring that portions of buildings that are rented or leased to be reviewed as subdivisions places an unnecessary burden on the public:

Requiring public review as a subdivision for rent/lease situations results in additional and unnecessary expense for both the single individual who wants to rent or lease the portion of the building, and for the general taxpayer.

(The expense occurs because generally local government Planning offices require a review fee, and also because generally the Planning offices are partially supported by the taxpayers.)

3. Requiring public review as a subdivision for rent/lease situations, which includes even multi-family such uses as duplexes; and commercial structures that may have more than one use (such as shopping centers and medical offices, for example), is an unwarranted test of the credibility of the various local governmental agencies. Requiring unnecessary public review, as more bureaucratic red-tape, could be interpreted by the general public as having an anti-development bias.

For example: Residential Units (multi-family)

In Helena alone, in 1984, 27 building permits were issued for a total of 115 multi-family units. It can be estimated that approximately half of those permits were issued for duplexes,

for an approximate total of 13 duplexes.

In 1983, 16 building permits were issued for a total of 103 multi-family units. Again, it can be estimated that approximately half of those permits were issued for duplexes, for an approximate total of 8 duplexes.

Commercial Development

In Helena alone, in 1984, there are a total of 10 examples where more than one commercial use was located in a building (by rent or lease). In 1983, there are a total of 6 examples where more than one commercial use was located in a building (again by rent or lease). These commercial examples include offices and shopping centers.

According to the AG opinion, in 1983 and 1984, it would have been necessary for the local governing body to review approximately an additional 21 duplexes as "subdivisions". According to the AG opinion, it would have also been necessary to review the remaining 22 multi-family units as subdivisions.

In addition, if the AG opinion had been in effect for 1983 and 1984, the local governing body would have had to review the 16 commercial uses.

SB 354 clarifies that portions of buildings, whether existing or newly constructed, that are leased or rented are not subdivisions, and do not require public review. SB 354 removes the unnecessary burden of unwarranted additional public review, and is a benefit to the general public.

The AREAWIDE PLANNING ORGANIZATION supports SB 354, and asks that you approve this bill.

Sincerely,



Kathy Macefield, Planner
AREAWIDE PLANNING ORGANIZATION

NAME Kathy MacField BILL No. 354
ADDRESS P.O. Box 1725 Helena 59624 DATE 2-21-88
WHOM DO YOU REPRESENT Areawide Planning Organization
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

SB 354 clarifies that portions of buildings, whether existing or newly constructed, that are leased or rented are not subdivisions, and do not require public review. SB 354 removes the unnecessary burden of unwarranted additional public review, and is a benefit to the general public.

STANDING COMMITTEE REPORT

FEBRUARY 21

85

19.....

MR. PRESIDENT

We, your committee on..... **LOCAL GOVERNMENT**

having had under consideration..... **SENATE BILL** No. **354**

FIRST reading copy (**WHITE**)
color

CLARIFYING DEFINITION OF DIVISION OF LAND; CONVEYANCE OF PART OF BUILDING

Respectfully report as follows: That..... **SENATE BILL** No. **354**

be amended as follows:

1. Title, line 6.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"
2. Page 1, line 18.
Following: line 17
Insert: "NEW SECTION. Section 2. Effective date.
This act is effective on passage and approval."

AND AS AMENDED

~~DO PASS~~

~~XXXXXXXXXX~~
~~DO NOT PASS~~

Senator Dave Fuller

Chairman.

William Spilker, a Helena realtor, said SB 415 is good legislation. Most subdivisions that would be included under SB 415 are site-specific, and should be locally reviewed, he said.

Steve Pilcher, representing the water quality bureau of the department of health and environmental sciences, said SB 415 recognizes the contribution and capabilities of local health departments. The bill will make subdivision review easier for all concerned, he said.

There were no opponents to SB 415, and the floor was opened to questions from committee.

Rep. Miles asked Mr. Pilcher who would request the review covered in the bill. He said that local county boards of health would make the review request to DHES.

Rep. Cobb asked if the \$1,000 per day penalty for violation of the rule (page 11, line 9) was excessive. Mr. Pilcher said that penalty is consistent with other laws regulating the state's environmental quality.

Sen. Harding closed by saying that the bill is a good one, worked out by sanitarians, planners and the department of health and environmental sciences. That broad base of support indicates that the support of the committee would be in order, she said.

EXECUTIVE ACTION

SENATE BILL 415: Rep. Ream moved that SB 415 BE CONCURRED IN. That motion was approved unanimously. Rep. O'Hara moved that the Statement of Intent be approved, and that motion was passed unanimously.

The committee then went out of executive action and began the public hearing on SB 354.

HEARING ON SENATE BILL 354: Sen. Joe Mazurek, District 23, introduced SB 354, which he sponsored. The bill is a brief one, and simply clarifies that the conveyance of one or more parts of a building is not a subdivision, he said. Sen. Mazurek told the committee he introduced the bill at the request of the Lewis & Clark area-wide planning board, after a series of recent attorney general's opinions created problems for planning agencies. Those opinions he said, have stated that under the subdivision and platting act, a duplex is a subdivision and must be reviewed. The bill simply says that a multi-family structure is not a subdivision and should not be reviewed as such, said Sen. Mazurek.

PROPOSERS: Gus Bergum, Lewis & Clark planning director, said SB 354 is a good means of ending the problems caused by a bad attorney general's opinion.

Helena real estate agent Bill Spilker supported SB 354.

Terry Carmody, representing the Montana Association of Realtors, said that group supports SB 354.

Jim Richard, of the Montana Association of Planners, said he had drafted some proposed amendments to the bill, but chose not to offer them to the committee. Because those amendments were not offered, the association would stand neutral on SB 354, he said.

There were no opponents to SB 354, and the floor was opened to questions from committee.

Rep. Raney asked if the allowance for improvements to a structure could become a loophole. For instance, could an improvement under SB 354 be a separate structure, he asked. Sen. Mazurek said that a shed might be construed as an improvement, but that a separate residence would not be allowable under the law. Rep. Raney said he believed there still might be a potential loophole in the bill.

Sen. Mazurek closed without comment.

Rep. Miles agreed to carry the bill on the floor of the House.

EXECUTIVE ACTION ON SB 354: Rep. O'Hara moved that SB 354 BE CONCURRED IN. Rep. Ream moved the minor amendment suggested by Sen. Mazurek, and that motion was unanimously approved. Rep. O'Hara then moved that SB 354 BE CONCURRED IN AS AMENDED, and that motion was approved with Rep. Raney voting no.

EXECUTIVE ACTION ON SB 112: Continuing the earlier discussion of SB 112, Rep. Raney said he could not see how SB 112 would hurt the conservation districts. Rep. Cobb commented that a fish and game representative is generally present at hearings anyway. Rep. Peterson agreed that conservation districts would likely not be burdened by the bill.

Rep. Kadas moved that SB 112 BE CONCURRED IN. Rep. Raney asked if the bill would require a terrific amount of action by the conservation districts, and Rep. Cobb said he did not think so. Rep. Ream said the bill is fine as it is, and the amendments proposed by the conservation districts would "clutter it up." Rep. Kadas's motion was unanimously approved. Rep. Raney agreed to carry the bill in the House.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date

3/22/85

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom			X
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney			X
GRADY, Edward			X
HARP, John			X
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

STANDING COMMITTEE REPORT

.....March 22..... 19 55.....

MR. SPEAKER:.....

We, your committee on NATURAL RESOURCES.....

having had under consideration SENATE BILL 354..... Bill No.

THIRD reading copy (BLUE)
color

AN ACT TO CLARIFY THAT THE CONVEYANCE OF ONE OR MORE PARTS
OF A BUILDING IS NOT A SUBDIVISION

Respectfully report as follows: That.....SENATE BILL 354..... Bill No.

BE AMENDED AS FOLLOWS:

- 1) Page 1, line 15.
Strike: "newly constructed"
Insert: "proposed"

AND IS AMENDED,

BE CONCURRED IN

~~DO PASS~~

STATE PUB. CO.
Helena, Mont.


Rep. DENNIS IVERSON

Chairman.

COMMITTEE SECRETARY